

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT—HOUSTON DIVISION

United States of America § Crim. No. H-10-609  
§  
§  
vs. §  
§  
§  
Sandra Elizabeth Cunningham §

TO THE HON. EWING WERLEIN, UNITED STATES DISTRICT JUDGE:

**UNOPPOSED**  
Motion for New Scheduling Order and Continuance

Defendant Sandra Elizabeth Cunningham, through counsel, moves the Court to issue a new scheduling order and grant a continuance of the trial setting in this case for the reasons stated below.

1. Counsel for the government, AUSA Jennifer Lowery, is unopposed.
2. Counsel, Melissa Martin, has recently accepted a position with the Harris County Public Defender's Office and will begin work on February 1, 2011. Counsel, therefore, is in the process of closing down her practice and Ms. Cunningham will need time to engage a new attorney who can substitute into the case. The case is not ready to proceed to trial due to a large amount of discovery material.
3. Ms. Cunningham was arraigned on September 9, 2010 and will not be prejudiced by the change in counsel.
4. The ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial. Failure to grant the continuance would deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Further, the nature of this prosecution is such that it is unreasonable to expect

adequate preparation for pretrial proceedings or for the trial itself within the time limits of the Speedy Trial Act, 18 U.S.C. §3161(8)(A) & (B)(iii) & (iv).

In view of the above, defendant prays the Court grant this Motion to Issue a New Scheduling Order and to Continue the Trial Setting, currently scheduled for February 14, 2011.

Respectfully submitted,

## **CERTIFICATE OF CONFERENCE**

I certify that I spoke with AUSA Jennifer Lowery, the attorney for the government in charge of this case, on January 4, 2011, and she is unopposed.

\_\_\_\_\_  
/s/ \_\_\_\_\_  
Melissa Martin

## **CERTIFICATE OF SERVICE**

I certify that a copy of this Attachment to Motion to Substitute Counsel will be sent electronically to AUSA Jennifer Lowery upon electronic filing of the Attachment on January 4, 2011.

\_\_\_\_\_/s/\_\_\_\_\_  
Melissa Martin

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TO THE HON. EWING WERLEIN, UNITED STATES DISTRICT JUDGE:

**ORDER**

Having heard and considered defendant Sandra Elizabeth Cunningham's Motion for New Scheduling Order and Continuance, the Court finds that the ends of justice outweigh the best interests of the public and the defendant in a speedy trial for the following reasons:

Failure to grant the motion would deny defendant's counsel the reasonable time necessary for effective preparation, taking into account the exercise of diligence; and the nature of the prosecution is such that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the limits of the Speedy Trial Act, 18 U.S.C. §3161(8)(A) &(B)(ii) & (iv).

The defendant's motion is therefore GRANTED.

It is ORDERED that a new scheduling order shall issue and the trial be continued for until \_\_\_\_\_, 2011.

Done at Houston, Texas on January \_\_, 2011.

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Presiding Judge